

## BEFORE THE DIVISION OF WATER RIGHTS

In The Matter Of:  <b>Quarry Mountain Ranch Home Owners' Association c/o Gary Moe</b>  <b>RESPONDENT</b>	<b>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</b>  SEAA No. 2151  WATER RIGHT: 35-12443 a36389  DISTRIBUTION ACCOUNT: 103507
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### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

*(a) each location where water is diverted from a source; and*

*(b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

*(a) the measuring device; and*

*(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

*(a) forbid the use of water until the user complies with the state engineer's requirement; and*

*(b) commence enforcement proceedings authorized by Section 73-2-25.*

### II. STATEMENT OF FACTS

1. Respondent diverts surface water from McLeod Creek and/or on West Grade Canal located within the Weber River Distribution System operated under the direction of the Water Commissioner appointed by the Utah State Engineer.
2. Respondent is owner of approved change application number a36389 with six approved points of diversion, three of which are proposed to be used in 2019, and only one of which has an approved measuring device.

3. Respondent pays distribution assessment associated with account 103507 for the regulation of these diversions under 35-12443 (a36389).
4. Water diverted must only be diverted at locations where suitable control structures and measuring devices exist.
5. Surface Diversion #2 in Respondent's 2019 Water Use Plan has an approved control structure and measuring device as required.
6. Surface Diversions #3 and #5 in Respondents 2019 Water Use Plan do not have approved control structures and/or measuring devices. Diversion #3 is to the Clissold Pond and Diversion #5 is to the Gate Pond.
7. Respondent is responsible for maintaining operable control structures and suitable measuring devices on each ditch or diversion where Respondent receives water.

### III. ACTIONS REQUIRED

1. Respondent must install headgates to adjust water flow diverted at point #3 (location listed as N1956 W505 SE 31 1S 4E SLBM) and point #5 (location listed as N3153 W641 SE 31 1S 4E SLBM). Control structures (headgates) must have a gate stem wheel that can be locked with a chain lock to prevent tampering and must not leak when locked closed.
2. Respondent must install suitable measuring devices to measure flow diverted at Surface Diversion points #3 and #5. Open channel flow type measuring devices are required to enable verification of flow. A stilling well is required as part of each measuring device to enable a flow record of the staff gage reading, but recording equipment at the stilling well is not required at this time.
3. **The above work must be completed on or before August 15, 2019.**

### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (6).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.

4. If determined to be in violation an Order, Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

#### V. FURTHER INFORMATION


If Respondent has questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Michael Drake  
*Regional Engineer, Weber River Office*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

*or*

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

Dated this 14<sup>th</sup> day of May, 2019

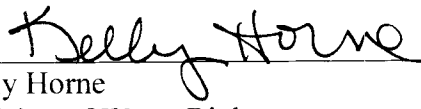
  
Ben Anderson, P.E.  
Distribution Engineer  
Utah Division of Water Rights

cc: Michael Drake, Regional Engineer  
Cole Panter, Weber River Commissioner  
Dennis Marchant, Deputy Commissioner  
Jim Riley, Jim Riley Engineering, LC

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 14<sup>th</sup> day of May, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Quarry Mountain Ranch Home Owners' Association  
c/o Gary Moe  
PO Box 682182  
Park City, UT 84068-2182**

  
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Kelly Horne  
Division of Water Rights  
Field Services Secretary